

1979 WL 42921 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 11, 1979

\*1 Mr. Gary R. Baker,  
Executive Director  
State Ethics Commission  
Room 116  
1026 Sumter Street  
P. O. Box 11627  
Columbia, South Carolina 29211

Dear Mr. Baker:

This is in reply to your request for an opinion from this office whether a Fire Commissioner from Belvedere Fire District may lawfully appear before the Public Service Commission to provide testimony concerning services rendered to his district by a water company.

The Public Service Commission has the power to supervise and regulate the rates and services of every public utility in this state, including fixing just and reasonable standards, classification, regulations, practices and measurements of services to be furnished, imposed or observed. See § 58-3-140. A public water company's services would be under the broad regulatory authority of the Public Service Commission.

The conduct of public officials and employees, however, is subject to the provisions of the Rules of Conduct of the State Ethics Act, § 8-13-410 et seq. § 8-13-470 provides:

No public official or public employee shall appear before the South Carolina Public Service Commission, South Carolina Dairy Commission, or the South Carolina Insurance Commission in rate or price fixing matters. This prohibition shall also apply to partners or associates in the law firm of a member of the General Assembly. Whenever it is required by law for a member of the General Assembly to appear because of his business interests as an owner or officer of such business, or in his official capacity as a member of the General Assembly, the provisions of this section shall not apply.

A Fire Commissioner is a public official within the meaning of the State Ethics Act. See § 8-13-20(e). This section of the Ethics Act clearly prohibits the Fire Commissioner, as a public official, from appearing before the Public Service Commission in rate or price fixing matters. However, he may appear before the Public Service Commission on any other matter not prohibited by statute. Thus, he may appear before the Public Service Commission concerning the services rendered to the Fire District, provided that such appearance is not in a rate or price fixing hearing.

Please do not hesitate to contact me if I can be of further assistance to you.

Sincerely,

Frank H. DuRant  
Assistant Attorney General

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